

Draft Minutes of the  
Delta Protection Commission Meeting  
March 27, 2003  
6:30 p.m.

1. Call to Order/Roll Call

Chairman Patrick N. McCarty called the meeting to order at 6:35 p.m.

2. Public Comment

Chairman McCarty invited those in attendance to address the Commission regarding items not on the agenda. No one addressed the Commission.

3. Minutes of the Last Meeting

Commissioner Coglianese asked that the name of Alan Rubin be reflected in the minutes regarding the discussion on biosolids. On a motion by Chairman McCarty, seconded by Commissioners Curry and Shaffer, the minutes were approved unanimously by voice vote. The suggested changes will be incorporated.

4. Chairman's Report

Chairman McCarty introduced new commissioner Katherine Kelly, Bay-Delta Program Manager who oversees the North and South Delta projects for the Department of Water Resources; and, newest Delta Protection Commission (DPC) staff member, Sheila Singleton, who previously worked for the Technology, Trade and Commerce Agency, Office of Military Base Retention and Reuse. He asked that Commissioners approve a draft resolution of appreciation for former Commissioner Steve Macaulay. On a motion by Commissioner van Loben Sels, seconded by Commissioner Curry, the draft resolution was approved. The next meeting of the DPC has been scheduled for Thursday, May 22, 2003 at the Jean Harvie Community Center, at 6:30 p.m.

5. Commissioner Comments/Announcements

Commissioner Curry announced this was his last meeting. He had committed to serving one year on the Commission after his retirement on May 1, 2003. He said David Johnson would be his replacement. Mr. Johnson serves as the Acting Deputy Director for the Department of Boating and Waterways.

Commissioner Coglianese gave an update on the biosolids issue in Solano County. The Board of Supervisors has held a series of public hearings, featuring various scientists making presentations on the current state of knowledge on biosolids. The Board also considered additional public comments at these hearings. She said the Board has not decided to suspend land application of biosolids as requested by the public, but will be amending the county's existing biosolids ordinance. The crux of the issue is whether there's enough scientific data to determine whether there are human health impacts associated with this practice; according to the National Academy of Sciences, additional research is needed. She showed a map of the lands in the County which are authorized for biosolids application, and noted that these lands

drain directly to the Delta and Suisun Marsh. In response to a question by Commissioner van Loben Sels, she said that some of these lands are located in the Yolo Bypass. The majority of the sewage sludge applied to these lands is from San Francisco and East Bay Municipal Utilities District. She added that State Regional Water Quality Control Board General Orders regulating this practice on a Statewide basis has been issued a CEQA challenge; certain aspects of the challenge to the General Order were upheld.

Commissioner Curtis reported on the status of the Delta Fisheries Protection Stamp. He said a proposal was going before the Legislature in the form of a “rider” bill to eliminate the Striped Bass Stamp and establish a Bay Delta Enhancement Stamp. This item would move through the Legislature in late May or June, and the Department of Fish and Game was in the process of *fleshing out* the concept of how the stamp will work. A few issues to be discussed include: what will happen to the moneys already earmarked; should there be an advisory committee and how would it be made up; and, should the general license fee be increased and the stamp be eliminated altogether. Commissioner Curtis also stated that the Director of Fish and Game will be setting up a meeting with fishermen to get input; however, no date has been set. Commissioner Curtis will serve as the contact. He will report back at the May Commission meeting.

Commissioner Ferguson said the South Delta Water Agency has been discussing the potential impacts of “Term 91”, which relates to diverters in the South Delta area. He said there are several landowners who have been diverting water from the Delta since before 1960, sometimes even before 1914, but as lands have been subdivided over the years and inaccurate records kept of these transactions, certain lands have been “disconnected” from the riparian area. The State Water Resources Control Board has been checking on some of these permits, and four landowners in the Stockton area have been informed that they hold junior water rights, which means they would have to cease and desist their diversions during dry years. He suggested that the Agriculture Committee take a look at this issue at its April meeting; Chairman McCarty directed staff to include this item on the Committee’s April agenda.

Mr. Doug Lovell with the Federation of Fly Fishers asked that his organization receive an audience with the Department of Fish and Game around early May 2003 to discuss the stamp.

#### 6. Attorney General’s Report

Dan Siegel reported on a sewage sludge decision in Kings County where the County’s proposal to phase out the use of sewage sludge was upheld.

Commissioner Coglianese reported that local regulation is being upheld and control has been given to local government in these decisions.

#### 7. Executive Director’s Report

Margit Aramburu, Executive Director reported that Hog Island, the educational recreation and ecosystem improvement project sponsored by a local non-profit and located in the Stockton Deep Water Ship Channel in San Joaquin County, has received a lease from the Port of Stockton for its lands on the west end of the Island. This would allow the project proponents to move forward with fund-raising for planning, design and permitting.

The Highway 160 Guardrails project in Sacramento County is mostly complete. While the permit issued by the Reclamation Board requires that CalTrans sign agreements with the impacted Reclamation Districts to address their concerns about both ongoing maintenance of the levees and emergency repair of the levees, no agreements have been signed to date.

Office Space - Since Sacramento County is closing its three rural courthouses--including the Walnut Grove Courthouse--Ms. Aramburu has contacted the County to discuss the possibility of renting space in the vacated buildings and using the courtroom as a Commission meeting room.

A possible impact of the State's budget problems is the possible elimination of subvention funding under the Williamson Act Program. This matter will be agendaized for discussion and possible action at the Agriculture Commission's April meeting.

Assembly Budget Subcommittee Hearing #3 was held Wednesday, March 19, 2003. Assemblymember Lois Wolk asked that the DPC budget be pulled from the consent calendar and asked questions of Ms. Aramburu and the Legislative Analyst's Office (LAO) about the current role of and the need for the DPC, in light of the creation of the new California Bay Delta Authority. The Legislature is trying to eliminate duplication of offices and/or duties. The Committee will be considering the Commission's budget at a future meeting. The date of the hearing has not been set; however, the LAO has asked a series of questions that Ms. Aramburu responded to in addition to meeting with the LAO on March 24. The Senate Budget Committee approved the Commission's budget on its consent calendar on March 20.

Commissioner McGowan said that he would be meeting with Susan Treabess of Assemblymember Lois Wolk's staff and urged the Commission to form an AdHoc Committee to discuss this item. Chairman McCarty agreed, saying that he would entertain forming an AdHoc Committee on this item because it appears that there is misinformation and a lack of understanding.

Ms. Aramburu finalized her report by stating that the Department of Boating and Waterway's Boating Needs Assessment was still at the Governor's Office awaiting approval. David Johnson, Acting Deputy Director for the Department of Boating and Waterways, explained the Governor's approval process to the members and said he would let the members know who to contact in the Governor's Office.

#### 8. CALFED Activities and Projects

Ms. Cindy Darling, Delta Coordinator for CALFED briefed the Commission on the CALFED activities to date. Ms. Darling stated that since the Bay Delta Authority has no public members appointed, staff is looking for public input by sending program plans out for comment. She further stated that CALFED workplans would be reviewed in June 2003.

Ms Darling noted that California Bay-Delta Authority staff is finalizing the Delta Implementation Plan prepared by Dennis Majors in 2001; the goal is to have this completed by the end of 2003.

Los Vaqueros Reservoir: The proposed expansion of the reservoir includes the consideration of several (up to seven) new water intakes to be located in Middle River and Old Rivers in the South Delta. Contra Costa Water District will decide in July whether to put this issue to a vote—a number of workshops have been scheduled. Ms Aramburu indicated she has spoken with Contra Costa Water District, and has arranged for a presentation on the proposed Los Vaqueros Reservoir expansion at the Commission's July meeting.

Ms Darling announced that there is a lot of grant money available under several grant programs administered by the State. The State Water Resources Control Board's Watershed Program and Non-point Source Pollution programs could provide funding for local water quality improvement efforts. Three-page concept pre-proposals are due to the State Board on May 9. In addition, staff is beginning to plan next fiscal year's grant process for the Integrated Water Management program to be administered jointly by the State Board and Department of Water Resources. These funds could be applied toward local flood control, non-native invasive species, and nonpoint source pollution control projects.

Ms. Darling stated that the Bay Delta Public Advisory Committee (BDPAC) met in Chico on March 25-26, where they discussed an update on development of the CALFED Finance Plan; the proposed FY 03-04 CALFED budget; the role of the new California Bay Delta Authority; implementation of Prop 50, 2003 water operations; how key implementation milestones that affect the Delta including the South Delta Improvement program, extension of the Environmental Water Account and long term contract renewals by the United States Bureau of Reclamation are being coordinated. The next BDPAC meeting would be scheduled for the first week in June.

Commissioner Kelly mentioned that the South Delta Improvements Plan (SDIP), has been delayed by a year from the timeline laid out in CALFED's Record of Decision (RDD), but is generally on schedule. The Department of Water Resources cannot go into final design until the final EIR/EIS is completed. The expected date is spring or early summer of 2004.

#### 9. Briefing on Freeport Regional Water Project

Eric Mishe, General Manager of the Freeport Regional Water Authority (FRWA), outlined the progress of the newly created Freeport Regional Water Authority (a joint powers agency composed of the East Bay Municipal Utility District, Sacramento County Water Agency [SCWA] and the City of Sacramento). Mr. Mishe stated that the project was a water supply project designed to bring supplemental water to Sacramento County. This project would provide up to 85 million gallons of water a year to be used in conjunction with ground water. Mr. Mishe said this project meets State needs.

Mr. Mishe also stated that the FRWA will be responsive to the Delta community's concerns and that they want to minimize impacts and respond to concerns that 2-3 percent of river flow will be taken. He outlined the project's features saying that the project will be 100 percent locally funded, has Mokelumne Basin flow augmentation and is consistent with CALFED projects and/or principals. Additionally, the draft EIR/EIS will be completed in May or June 2003; the final environmental document will be ready by winter 2003/2004; engineering/

permitting will be complete by summer 2005; they will be ready to award construction contracts by Fall 2005; complete intake and pipeline construction will take place in spring 2008; and finally, the SCWA water treatment facility will be operational by Spring 2010.

10. SB 86 – Delta Conservancy Legislation (Machado)

Chairman McCarty reported that last year Senator Machado introduced SB 86, which would create a Delta Conservancy; however, after hearing Commission/public comments, the Senator revised his original bill from a Conservancy to a Conservancy Program to be administered by the California Coastal Conservancy. After reviewing the amended bill the Commission agreed to support the bill if certain changes were made to ensure that projects funded through a Delta Conservancy Program would comply with the regional goals outlined in the Commission's Law and Plan. Moreover, Chairman McCarty said that the amended bill did not pass out of Committee during the last session and has been re-introduced by the Senator this year. He mentioned that Senator Machado was unable to attend tonight's meeting; however the Senator asked that the DPC review the bill, pass along any comments, and he would return to discuss the bill language at the next Commission meeting. Chairman McCarty asked the Commission to focus their discussion on how they can help carry out the Conservancy's vision as outlined in the legislation.

Ms. Aramanburu said that the Senator's staff is available regarding the bill from appropriations but they want coastal conservancy to handle all contracts. She further suggested to the Commission that they may want to appoint a Committee to work with the Senator. Commissioner van Loben Sels commented that he supported the bill in principle, but there was still some language he would like to see changed. The language in section 31185 of the draft bill could be strengthened with the input of experienced Delta stakeholders. Chairman

McCarty noted that the Senator's draft legislation from last year gave the Commission the authority to review, comment on, and ultimately make a decision on potential projects in the Delta; this new legislation does not give the Commission that "veto" power. He agreed that some of the language in the bill could be strengthened to clarify the Commission's role in reviewing and approving projects.

Kristin Stauffacher of Senator Machado's staff reported that there had been preliminary discussions with Resources Agency staff and she seemed optimistic regarding the bill. Commissioner McGowan feels there needs to be some tweaking of the bill's language, however, he does believe it is a good bill. Chairman McCarty asked the members to be active participants and agreed with Commissioner McGowan. He appointed a committee made up of Commissioner Coglianese and himself to assist the Senator on this issue.

11. Draft Interim Process for Review of Recreation Improvements and Enhancements for Proposed CALFED Projects

Ms Aramburu stated there was currently no Delta recreation master plan, and a plan is probably still a few years off. She said in the interim, Commission staff would analyze CALFED projects in accordance with the process outlined in the staff report. She said this process was presented to the Commission's Recreation Citizens Advisory Committee at its March meeting.

Participants recommended simplification of reporting requirements—some thought this process was too detailed for the analysis of recreation (as opposed to Ecosystem Restoration Program) projects. On a motion by Commissioner van Loben Sels seconded by Commissioner McGowan, the Commission adopted the review process outlined in the staff report.

Commissioner van Loben Sels said he wanted the DPC to give their input early in order to be more open to discussions that will work; however, Commissioner Kelly warned that various CALFED committees are being scrutinized because there are so many AdHoc programs as it is.

Mr. Doug Lovell, Federation of Fly Fishers association said that his organization endorsed the Recreation Citizens Advisory Committee (RCAC) participation in CALFED. Commissioner Curry felt that the Department of Boating and Waterways has been criticized for not participating in CALFED. Ms. Darling stated that CALFED funds many activities in the Delta, and that the DPC should work with CALFED regarding the RCAC.

Commissioner Curry announced that the Department of Boating and Waterways has committed \$100,000 toward the formulation of a Delta recreation master plan, pending matching funds from other sources to make up the remainder of the ~\$500,000 estimated cost.

Commissioner van Loben Sels moved to adopt the process outlined in the report and continued participation in CALFED. The motion was seconded by Commissioner Curtis. The vote was approved unanimously.

## 12. Election of Officers

Ms. Aramburu announced that nominations were open for the position of Chairman--a two-year term. Commissioner McGowan moved to re-elect Commissioner McCarty as Chair of the DPC and Commissioner Bob Ferguson as Vice-Chairman. The motion was seconded by Commissioner Coglianese. The vote was approved with one abstention from Commissioner McCarty.

## 13. Adjourn

Ms. Armaburu presented Commissioner Curry with a Delta Protection Commission hat and book, and thanked him for his ten years of service on the Commission.

Chairman McCarty adjourned the meeting in honor of Commissioner Curry at 8:30 p.m.